

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

FILED BY ag D.C.
05 SEP 26 PM 4: 04

THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W/D OF TN, MEMPHIS
PLAINTIFF

BANCORPSOUTH BANK

v.

**JUSTIN HERTER A/K/A BARRY J.
HERTER, CAPITOL MANAGEMENT,
INC., ROBERT POWELL, JANET
POWELL, and SYLVESTRE LOERA**

CIVIL ACTION NO. 04-2420-B

DEFENDANTS

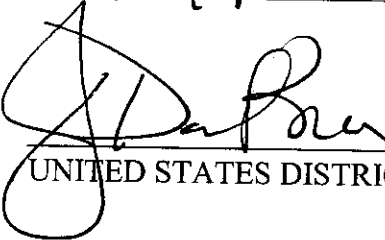
CONSENT ORDER ALLOWING SECOND AMENDED COMPLAINT

THIS DAY this cause came on for consideration of BancorpSouth Bank's Motion to Amend Complaint to file a Second Amended Complaint as attached to its companion Motion as **Exhibit A**. The Defendants, through counsel, having indicated to the Court and counsel for BancorpSouth that they consent to same, and authorize counsel for BancorpSouth to affix their name hereon, the Court finds said Motion well taken and same is hereby sustained.


IT IS, THEREFORE, ORDERED AND ADJUDGED that BancorpSouth Bank's Second Amended Complaint is hereby allowed and deemed filed. In that said Second Amended Complaint's purpose lowers the damages/ad damnum portion of the complaint only, defendants need not file a responsive pleading and that their previously filed answer shall serve as the response to the Second Amended Complaint, unless said defendants otherwise desire to answer, respond, or plead to said Second Amended Complaint.

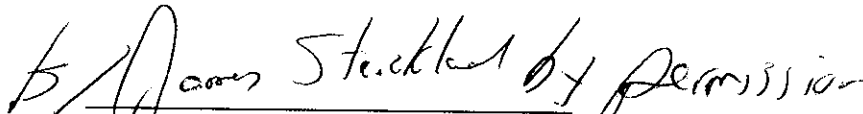
This document entered on the docket sheet in compliance
with Rule 58 and/or 79(a) FRCP on 9-27-05

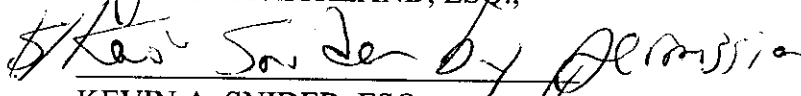
ORDERED AND ADJUDGED, this the 26th day of Sept, 2005.


UNITED STATES DISTRICT JUDGE

CONSENTED TO BY:


J. PATRICK CALDWELL, ESQ.,
Attorney for Plaintiff


JAMES S. STRICKLAND, ESQ.,


KEVIN A. SNIDER, ESQ.



Notice of Distribution

This notice confirms a copy of the document docketed as number 32 in case 2:04-CV-02420 was distributed by fax, mail, or direct printing on September 27, 2005 to the parties listed.

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Honorable J. Breen
US DISTRICT COURT